

(1981) 04 AP CK 0004
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2122 of 1980

The Andhra Pradesh State Electricity Board and Another	APPELLANT
Vs	
K. Venkateswara Rao	RESPONDENT

Date of Decision : 08-04-1981

Acts Referred:

Andhra Pradesh Court Fees and Suits Valuation Act, 1956 — Section 11(2), 24(d)
Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 1981 AP 197

Hon'ble Judges : Madhusudan Rao, J

Bench : Single Bench

Advocate : Raja Reddy, for T. Anantha Babu, for the Appellant; G. Narayana Rao, for the Respondent

Final Decision : Allowed

Judgement

1. This revision is directed against the order of the learned III Additional District Munsif, Guntur, in O. S. No. 652 of 1975 on the file of his Court. The first petitioner is the Andhra Pradesh State Electricity Board, represented by its Deputy Chief Accountant, Revenue Office. Guntur. The second petitioner is the Assistant Engineer, Andhra Pradesh State Electricity Board (Operation), Guntur. The respondent is the Director of M/s. Nava Bharat Enterprises (Private) Ltd., Guntur.

2. The respondent has been in personal occupation of a building in Guntur in his capacity as the Director of M/s. Nava Bharat Enterprises (Private) Ltd., Guntur. The petitioners supplied electricity under the service connection No. 15605 (11) of B3 Zone. The 1st petitioner passed an order for collection of Rs. 10,549-25 P. from the respondent on the ground that the service connection to the building occupied by the respondent could not be classified under category II, as it was not solely used for domestic purposes, but it should be classified under category III, as it was being used as bungalow. A bill was issued by the petitioners demanding the respondent to pay a sum of Rs. 20,005-65 P. and threatening to

disconnect the supply of electricity to the respondent, if the amount was not paid on or before 14-5-1975. The respondent instituted the suit for a declaration that the order passed by the 1st petitioner and the bill issued by the second petitioner are illegal and invalid and also for a permanent injunction restraining the petitioners from disconnecting the supply of electricity to the respondent. The petitioners filed a written statement contending that the respondent obtained the supply of electricity on the specific agreement that the electrical energy would be consumed only for domestic purposes and that he however used the building not merely for his personal occupation but also as a guest house for distinguished visitors and thus rendered himself liable to be charged under category III, but not under Category II. It is further contended that the order passed by the 1st petitioner and the bill issued by the second petitioner are valid and proper and that they are binding on the respondent. Yet another contention of the defendants was that the Court had no jurisdiction to entertain the suit, as the value of the subject-matter is Rs. 20,000 and odd. It is also contended that the court-fee paid by the plaintiff valuing the relief at Rs. 1,000/- u/s 24(d) of the Andhra Pradesh Court-fees and Suits Valuation Act, is illegal and improper.

3. On the request of both the parties the issues relating to the court-fee and jurisdiction were tried as preliminary issues and the learned District Munsif held in favour of the respondent on both the issues. The petitioner thereupon came up to this Court with this revision application.

4. Sri G. Narayana Rao, the learned Counsel for the respondent raised a preliminary objection in regard to the maintainability of revision. He contends that a question of court-fee payable on

a plaint is purely a matter between the plaintiff and the State and that the defendant in the suit has no right to raise the question of court-fee. In support of his contention. Sri G. Narayana Rao relies on Sri Ratnavaramaraja Vs. Smt. Vimla, and Subhadramma Vs. Palaksha Reddy and Others, .

5. The Court-fees Act is no doubt intended to collect revenue for the benefit of the State and the provisions therein cannot be construed as any weapons of defence for the defendant. Any decision by a Court in regard to the adequacy or in-adequacy of the court-fee paid by the plaintiff may result in a grievance either on the part of the State or On the part of the plaintiff and

the defendant cannot however feel aggrieved with such a decision. Section 11(2) of the Andhra Pradesh Court-fees and Suits Valuation Act, 1956 gives a statutory right to the defendant to plead that the Court-fee paid is not sufficient; but this right cannot be extended to a right of revision also, if the Court decides against his plea. Section 11(2) of the Andhra Pradesh Court-fees and Suits Valuation Act is the same as Section 12(2) at the Madras Court-fees and Suits Valuation Act. Considering the effect of Section 12(2) of the Madras Court-fees and Suits Valuation Act, their Lordships of the Supreme Court in Sri Ratnavaramaraja Vs. Smt. Vimla, observed as follows (at Pp. 1300-1301):

"But this section only enables the defendant to raise a contention as to the proper court-fee payable on a plaint and to assist the Court in arriving at a just decision on that question. Our attention has not been invited to any provision of the Madras Court-fees Act or any other statute which enables the defendant to move the High Court in revision against the decision of the Court of first instance on the matter of Court-fee payable in a plaint.....The anxiety of the Legislature to collect Court-fee from the litigant is manifest from the detailed provisions made in Ch. III of the Act, but those provisions do not arm the defendant with a weapon of technicality to obstruct the progress of the suit by approaching the High Court in revision against an order determining the Court-fee payable."

There may however be cases where the question of court-fee is not pure and simple, but involves the question of jurisdiction of the Court also. In such cases, there cannot be any doubt that the High Court can interfere in revision at the instance of either party to the proceeding. In the instant case, according to the plaintiff, the value of the suit is Rs. 1000/- and he paid Court-fees on that value. According to the defendants, the value of the suit is Rs. 20,000/- and odd and the Court-fee is payable on that value. The trial Court accepted the court-fee paid by the plaintiff on the ground that the valuation made by him is correct. The Court, which decided this matter is the Court of a District Munsif, the pecuniary jurisdiction of which is up to Rs. 10,000/-. If the objection of the defendant is correct, not only the plaintiff would be required to pay more court-fee than what he had paid, but the suit also becomes triable by another Court viz., the Court of the concerned Subordinate Judge and not the Court of the District Munsif. The question of Court-fee raised by the defendant is therefore not a question of court-fee simpliciter, but a combined question of court-fee and jurisdiction. The defendant can therefore request the High Court to interfere in revision with the impugned order of the lower Court. Even in *Sri Ratnavaramaraja Vs. Smt. Vimla*, relied on by the respondent's learned Counsel, their Lordships of the Supreme Court observed (at p. 1301) :

"In our view the High Court grievously erred in entertaining revision applications on questions of court-fee at the instance of the defendant, when no question of jurisdiction was involved."

In *Subhadramma Vs. Palaksha Reddy and Others*, also, it was held that the High Court should not entertain a revision application on the question of court-fee at the instance of the defendant, when no question of jurisdiction of the Court to try the suit is involved. Both the rulings cited by the respondent's learned Counsel clearly repel his contention and I do not therefore find any substance in the preliminary objection in regard to the maintainability of the revision.

6. Sri E. Raja Rao, the learned Counsel for the petitioners contends, that the respondent ought not to have been permitted by the lower Court to pay Court-fee on the notional value of Rs. 1,000/- made by him. It is argued that the plaintiff has to value the relief with reference to the advantage which is sought to

be gained by him or the loss sought to be avoided by him. In support of this submission, he relies on the decision of a Division Bench of this Court in *The Andhra Pradesh State Electricity Board, Hyderabad Vs. K. Ramachandra Reddy*, . In that case, the four plaintiffs sued the Andhra Pradesh State Electricity Board praying in one suit for the avoidance of consumption charges and in the other suits for a declaration that the demand notices issued to them were illegal and for injunction restraining the Board from disconnecting the supply of electricity. The plaintiffs paid notional court-fees in all the four suits. The trial Court accepted the valuation made by the plaintiffs and the Electricity Board thereupon preferred revisions against the orders of the trial Court. It was held by the Bench that, in the suit for avoidance of consumption charges, court-fee should be paid on the amount which the plaintiff was seeking to avoid as consumption charges. It was further held that, in the suits for declaration and injunction, court-fees should be paid on the respective half amounts mentioned in the demand notices which the plaintiffs were seeking to avoid. In the face of this Bench decision, there can be little doubt that the notional valuation made by the plaintiff in the instant case is contrary to law not permissible. The plaintiff seeks to avoid the payment of consumption charges in a sum of Rs. 20,005-65 P. and court-fee has to be paid on the amount for the avoidance of which the suit is laid.

7. Once it is held that the value of the subject-matter of the suit is Rs. 20,000/- and odd and that court-fees is payable on this amount, there can be little doubt that the District Munsif, whose pecuniary jurisdiction limit is Rs. 10,000/-, has no jurisdiction to try the suit and by his decision under the impugned order, he is proposing to exercise jurisdiction in a case which is not within his jurisdiction.

8. Relying on the decision of this Court in *N.A. Siddiqui Vs. The State of Andhra Pradesh and Others*, , Sri G. Narayana Rao submits that the respondent-plaintiff would like to give up the prayer for declaration and restrict the suit only for the relief of injunction. It is not for this Court to consider this request of the plaintiff-respondent. The question for decision in this revision is whether the order passed by the learned District Munsif permitting the respondent to nationally value the suit at Rs. 1,000/- is legal or illegal. In the light of the Bench decision of this Court in *The Andhra Pradesh State Electricity Board, Hyderabad Vs. K. Ramachandra Reddy*, there can be little doubt that the order of the lower Court is illegal and improper. The same is accordingly set aside and the lower Court is directed to return the plaint to the respondent for proper presentation before the appropriate Court.

9. In the result, the revision is allowed. No costs.